

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: FRANCIS G. GARDUS

CHAPTER 13

Debtor(s)

CASE NO: 5-17-02476-RNO

CHARLES J. DEHART, III
CHAPTER 13 TRUSTEE

Movant

MOTION TO DISMISS

vs.

FRANCIS G. GARDUS

Respondent(s)

TRUSTEE'S MOTION TO DISMISS CASE

AND NOW, comes Charles J. DeHart, III, Esquire, Standing Chapter 13 Trustee, through his attorney Agatha R. McHale, Esquire and brings this Motion to Dismiss Case, a statement of which follows:

1. Debtor(s) filed the above case on June 12, 2017.
2. The plan obligates Debtor(s) to make monthly payments to the Trustee.
3. The Trustee filed Motions to Dismiss Case for Material Default due to non-payment of these monthly payments on the following dates -04/11/2018 02/17/2019 11/14/2019.
4. Debtor(s) cured each of these defaults prior to the scheduled hearing and therefore avoided entering into a stipulation to maintain timely payments.
5. Debtor(s) is currently 2 months in default with arrearages of \$1,291.10 through March 5, 2020.
6. The non-payment of Debtor's plan obligation is
 - a. a material default with respect to the confirmed plan; and
 - b. an unreasonable delay by Debtor that is prejudicial to creditors.
7. Dismissal of the case is in the best interest of the creditors and the estate.
8. Notice of conference, hearing and other instructions are included with this Motion.

WHEREFORE, the Standing Chapter 13 Trustee requests this Court to dismiss the above case.

Dated: March 5, 2020

Respectfully submitted,

/s/ Agatha R. McHale, Esquire

ID: 47613

Attorney for Movant

Charles J. DeHart, III

Standing Chapter 13 Trustee

8125 Adams Drive, Suite A

Hummelstown, PA 17036

Phone: (717) 566-6097

Fax: (717) 566-8313

eMail: amchale@pamd13trustee.com

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NOTICE

NOTICE IS HEREBY GIVEN THAT Charles J. DeHart, III, Standing Chapter 13 Trustee for the Middle District of Pennsylvania has filed a Motion to Dismiss for failure to make timely payments pursuant to your Chapter 13 Plan.

YOU ARE HEREBY NOTICED that a CONFERENCE before the Trustee and a HEARING with the Court have been scheduled on this motion. Any matters not resolved at the Trustee's Conference shall be heard at the dismissal hearing to be held as stated below:

CONFERENCE before Trustee:

April 1, 2020 at 9:00 am
U.S. Bankruptcy Court
Max Rosenn U.S. Courthouse
197 S. Main Street
Wilkes Barre, PA

HEARING:

April 1, 2020 at 09:30 AM
U.S. Bankruptcy Court
Max Rosenn U.S. Courthouse
197 S. Main Street
Wilkes Barre, PA

YOU ARE FURTHER NOTICED that you MUST attend the conference or dismissal hearing unless one of the following takes place.

1. You have entered into a valid stipulation with Trustee DeHart and that stipulation has been filed with the U.S. Bankruptcy Court.
2. You have filed a voluntary conversion to Chapter 7 or a voluntary case dismissal with the U.S. Bankruptcy Court and have served a copy of that motion upon Trustee DeHart.

FAILURE TO COMPLY WITH THE ABOVE WILL RESULT IN YOUR CHAPTER 13 CASE BEING CALLED FOR DISMISSAL HEARING WITH THE COURT IMMEDIATELY AFTER YOUR CONFERENCE WITH THE TRUSTEE AND MAY RESULT IN DISMISSAL OF YOUR CASE.

Dataed: March 5, 2020

Charles J. DeHart, III, Trustee
8125 Adams Drive, Suite A
Hummelstown, PA 17036
Phone: (717)566-6097
Fax: (717) 566-8313

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CERTIFICATE OF SERVICE

I certify that I am more than 18 years of age and that on March 5, 2020, I served a copy of this Motion to Dismiss, Notice and Proposed Order on the following parties by 1st Class mail, unless served electronically.

MARK J. CONWAY, ESQUIRE
502 SOUTH BLAKELY STREET
DUNMORE, PA 18512-

Served electronically

FRANCIS G. GARDUS
35 ONTARIO STREET
SIMPSON, PA 18407

Served by 1st Class Mail

United States Trustee
228 Walnut Street
Suite 1190
Harrisburg, PA 17101

Served electronically

I certify under penalty of perjury that the foregoing is true and correct.

Date: March 5, 2020

Liz Joyce
for Charles J. DeHart, III, Trustee
Suite A, 8125 Adams Dr.
Hummelstown, PA 17036
Phone: (717) 566-6097
eMail: dehartstaff@pamd13trustee.com

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ORDER DISMISSING CASE

Upon consideration of the Trustee's Motion to Dismiss, it is hereby Ordered that the above-captioned bankruptcy be and hereby is dismissed.